
HOUSE BILL No. 1522

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-33; IC 5-10; IC 5-14-3; IC 35-47-4.5-3.

Synopsis: Gaming agents. Prohibits the Indiana gaming commission from contracting with the state police department for the performance of background investigations and certain duties required during riverboat gambling operations. Requires the Indiana gaming commission to employ its own enforcement officers and auditors. Vests gaming enforcement officers with certain police powers. Provides that gaming enforcement officers are members of the state excise police and conservation officers' retirement plan. Makes other conforming changes. Specifies that information concerning an investigation conducted by the gaming enforcement officers may not be disclosed unless access is specifically required by statute or a court order.

Effective: July 1, 2005.

Alderman

January 18, 2005, read first time and referred to Committee on Public Policy and Veterans Affairs.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1522

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-33-2-11.6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 11.6. "Law enforcement agency" means any of the**
4 **following:**

5 **(1) The gaming enforcement officers of the Indiana gaming**
6 **commission.**

7 **(2) The state police department.**

8 **(3) The conservation officers of the department of natural**
9 **resources.**

10 **(4) The state excise police of the alcohol and tobacco**
11 **commission.**

12 SECTION 2. IC 4-33-4-3 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The commission shall do the
14 following:

15 (1) Adopt rules that the commission determines necessary to
16 protect or enhance the following:

17 (A) The credibility and integrity of gambling operations

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authorized by this article.

(B) The regulatory process provided in this article.

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's ~~inspectors and agents~~ **enforcement officers** during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(9) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

(c) Rules adopted under subsection (a)(9) must provide the following:

(1) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program agrees to refrain from entering a riverboat or other facility under the jurisdiction of the commission.

(2) That the name of a person participating in the program will be included on a list of persons excluded from all facilities under the jurisdiction of the commission.

(3) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program may not petition

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the commission for readmittance to a facility under the jurisdiction of the commission.

(4) That the list of patrons entering the voluntary exclusion program and the personal information of the participants are confidential and may only be disseminated by the commission to the owner or operator of a facility under the jurisdiction of the commission for purposes of enforcement and to other entities, upon request by the participant and agreement by the commission.

(5) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(6) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.

SECTION 3. IC 4-33-4-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. (a) The commission ~~may shall~~ employ ~~or contract for inspectors and agents required under section 3(7)~~ **enforcement officers and auditors to perform the duties imposed by section 3(a)(7)** of this chapter. The licensed owners and operating agents shall, in the manner prescribed by the rules of the commission, reimburse the commission for:

(1) the training expenses incurred to train enforcement officers;

(2) the salaries and other expenses of staff required to support the enforcement officers and auditors described in subdivision (3); and

(3) the salaries and other expenses of the ~~inspectors and agents~~ **enforcement officers and auditors** required to be present during the time gambling operations are conducted on a riverboat.

(b) **Beginning January 1, 2007, the commission may not contract with the state police department to perform the duties imposed by section 3(a)(7) of this chapter.**

(c) An auditor employed under this section must be an accounting professional (as defined in IC 23-1.5-1-2).

(d) The number of auditors employed under this section is subject to the discretion of the executive director.

(e) **Beginning January 1, 2007, the number of enforcement officers and auditors employed under this section may not be less**

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than the number of state police officers assigned to perform the commission's duties under section 3(a)(7) of this chapter on December 31, 2006.

SECTION 4. IC 4-33-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) **Before January 1, 2007**, the state police department shall assist the commission in conducting background investigations of applicants. The commission may forward all fingerprints required to be submitted by license applicants under IC 4-33 to the Federal Bureau of Investigation or any other agency for the purpose of screening applicants. The commission shall reimburse the state police department for the costs incurred by the state police department as a result of the assistance. The commission shall make the payment from fees collected from applicants.

(b) **After December 31, 2006, the commission through its enforcement officers shall conduct background investigations of applicants. Costs incurred conducting the investigations must be paid from fees collected from applicants.**

SECTION 5. IC 4-33-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 4.5. Gaming Commission Enforcement Officers

Sec. 1. (a) **The commission shall employ qualified individuals to serve as enforcement officers of the commission. In employing enforcement officers, the commission shall use its best efforts to ensure that not more than one-half (1/2) of the number of enforcement officers are members of the same political party. The commission shall issue to each enforcement officer a certificate of employment under the seal of the commission. The courts of Indiana shall take judicial notice of a certificate of employment issued under this section.**

(b) **If the commission employs an individual who was an Indiana state police officer just prior to being employed by the commission, the compensation paid to the individual by the commission may not be less than the compensation the individual was receiving as an Indiana state police officer.**

Sec. 2. (a) **An enforcement officer is vested with full police powers and duties to enforce the provisions of this title.**

(b) **An enforcement officer may issue a summons for infraction or misdemeanor violations if the defendant promises to appear by signing the summons. A defendant who signs a summons issued under this subsection but fails to appear is subject to the penalties provided by IC 35-44-3-6.5. Upon the defendant's failure to appear,**

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the court shall issue a warrant for the arrest of the defendant.

(c) In addition to the powers and duties vested under subsection (a), an enforcement officer may act as an officer for the arrest of offenders who violate the laws of Indiana if the enforcement officer reasonably believes that a crime has been, is being, or is about to be committed or attempted in the enforcement officer's presence.

Sec. 3. Each enforcement officer shall execute a surety bond in the amount of one thousand dollars (\$1,000), with surety approved by the commission, and an oath of office, both of which must be filed with the executive director.

Sec. 4. (a) The injury to, injury to the health of, or death of an enforcement officer is compensable under the appropriate provisions of IC 22-3-2 through IC 22-3-7 if the injury, injury to the health, or death arises out of and in the course of the performance of the officer's duties as an enforcement officer.

(b) For purposes of subsection (a) and IC 22-3-2 through IC 22-3-7, an enforcement officer is conclusively presumed to have accepted the compensation provisions included in the parts of the Indiana Code referred to in this subsection.

Sec. 5. An eligible enforcement officer who retires with at least twenty (20) years of service as an enforcement officer:

- (1) may retain the officer's service weapon;
- (2) may receive, in recognition of the officer's service to the commission and to the public, a badge that indicates that the officer is retired; and
- (3) shall be issued by the commission an identification card stating the officer's name and rank, signifying that the officer is retired, and noting the officer's authority to retain the service weapon.

Sec. 6. (a) The commission shall categorize salaries of enforcement officers within each rank based upon the rank held and the number of years of service in a law enforcement agency through the tenth year. The salary ranges that the commission assigns to each rank must be divided into a base salary and ten (10) increments above the base salary with:

- (1) the base salary in the rank paid to a person with less than one (1) year of service in a law enforcement agency; and
- (2) the highest salary in the rank paid to a person with at least ten (10) years of service in a law enforcement agency.

(b) For purposes of creating the salary matrix prescribed by this section, the commission may not approve salary ranges for any rank that are less than the salary ranges effective for state police

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officers serving on riverboats as of January 1, 2005.

(c) The salary matrix prescribed by this section shall be reviewed and approved by the budget agency before implementation.

SECTION 6. IC 5-10-1.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Each retirement plan for employees of the state or of a political subdivision shall report annually on September 1 to the public employees' retirement fund the information from the preceding fiscal year necessary for the actuary of the fund to perform an actuarial valuation of each plan. Where the director and actuary of the fund consider it appropriate, the actuary may combine one (1) retirement plan with another or with the public employees' retirement fund for the purposes of the actuarial valuation.

The retirement plans covered by this chapter are the following:

- (1) The state excise police, **gaming enforcement**, and conservation enforcement officers' retirement plan established under IC 5-10-5.5.
- (2) The "trust fund" and "pension trust" of the state police department established under IC 10-12-2.
- (3) Each of the police pension funds established or covered under IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.
- (4) Each of the firemen's pension funds established or covered under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.
- (5) Each of the retirement funds for utility employees authorized under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.
- (6) Each county police force pension trust and trust fund authorized under IC 17-3-14 or IC 36-8.
- (7) The Indiana judges' retirement fund established under IC 33-38-6.
- (8) Each retirement program adopted by a board of a local health department as authorized under IC 16-1-4-25 (before its repeal) or IC 16-20-1-3.
- (9) Each retirement benefit program of a joint city-county health department under IC 16-1-7-16 (before its repeal).
- (10) Each pension and retirement plan adopted by the board of trustees or governing body of a county hospital as authorized under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.
- (11) Each pension or retirement plan and program for hospital personnel in certain city hospitals as authorized under IC 16-12.2-5 (before its repeal) or IC 16-23-1.
- (12) Each retirement program of the health and hospital corporation of a county as authorized under IC 16-12-21-27

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(before its repeal) or IC 16-22-8-34.

(13) Each pension plan provided by a city, town, or county housing authority as authorized under IC 36-7.

(14) Each pension and retirement program adopted by a public transportation corporation as authorized under IC 36-9.

(15) Each system of pensions and retirement benefits of a regional transportation authority as authorized or required by IC 36-9.

(16) Each employee pension plan adopted by the board of an airport authority under IC 8-22-3.

(17) The pension benefit paid for the national guard by the state as established under IC 10-16-7.

(18) The pension fund allowed employees of the Wabash Valley interstate commission as authorized under IC 13-5-1-3.

(19) Each system of pensions and retirement provided by a unit under IC 36-1-3.

SECTION 7. IC 5-10-1.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The retirement plans covered by this chapter are:

(1) The state excise police, **gaming enforcement**, and conservation officers' retirement plan, established under IC 5-10-5.5.

(2) The public employees' retirement fund, established under IC 5-10.3-2.

(3) The trust fund and pension trust of the department of state police, established under IC 10-12-2.

(4) The Indiana state teachers' retirement fund, established under IC 21-6.1-2.

(5) The Indiana judges' retirement fund, established under IC 33-38-6.

(6) The police officers' and firefighters' pension and disability fund established under IC 36-8-8-4.

(b) As used in this chapter:

"Board" means the board of trustees of a retirement plan covered by this chapter.

SECTION 8. IC 5-10-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter and unless the context clearly denotes otherwise:

(a) "Department" means the Indiana department of natural resources.

(b) "Commission" means the alcohol and tobacco commission.

(c) "Officer" means any Indiana state excise police officer, ~~or~~ any Indiana state conservation enforcement officer, **or any Indiana**

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gaming enforcement officer.

(d) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.

(e) "Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(f) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(g) "Public employees' retirement act" means IC 5-10.3.

(h) "Public employees' retirement fund" means the public employees' retirement fund created by IC 5-10.3-2.

(i) "Interest" means the same rate of interest as is specified under the public employees' retirement law.

(j) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

(k) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.

SECTION 9. IC 5-10-5.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. There is hereby created a state excise police, **gaming enforcement**, and conservation enforcement officers' retirement plan to establish a means of providing special retirement, disability and survivor benefits to employees of the department, **the Indiana gaming commission**, and the **alcohol and tobacco** commission who are engaged exclusively in the performance of law enforcement duties.

SECTION 10. IC 5-10-5.5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The state excise police, **gaming enforcement**, and conservation officers' retirement plan shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the

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retirement plan. In order to meet those requirements, the retirement plan is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The board shall distribute the corpus and income of the retirement plan to participants and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the retirement plan may be used or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any participant would otherwise receive under this chapter.

(4) If the retirement plan is terminated, or if all contributions to the retirement plan are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the retirement plan shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the retirement plan is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the participant died.

(C) The amount of an annuity paid to a participant's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participants or beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

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(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

SECTION 11. IC 5-10-5.5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. The state excise police, **gaming enforcement**, and conservation enforcement officers' retirement plan shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

SECTION 12. IC 5-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The state police department, conservation officers of the department of natural resources, **gaming enforcement officers of the Indiana gaming commission**, and the state excise police may establish common and unified plans of self-insurance for their employees, including retired employees, as separate entities of state government. These plans may be administered by a private agency, business firm, limited liability company, or corporation.

(b) The state agencies listed in subsection (a) may not pay as the employer portion of benefits for any employee or retiree an amount greater than that paid for other state employees for group insurance.

SECTION 13. IC 5-10-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

- (1) A state police officer.
- (2) A county sheriff.
- (3) A county police officer.
- (4) A correctional officer.
- (5) An excise police officer.
- (6) A county police reserve officer.
- (7) A city police reserve officer.
- (8) A conservation enforcement officer.
- (9) A town marshal.
- (10) A deputy town marshal.
- (11) A probation officer.
- (12) A state university police officer appointed under IC 20-12-3.5.
- (13) An emergency medical services provider (as defined in

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IC 16-41-10-1) who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(14) A firefighter who is employed by the fire department of a state university.

(15) A gaming enforcement officer of the Indiana gaming commission.

SECTION 14. IC 5-14-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter:

"Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

"Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

"Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

"Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

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- 1 (A) by enhanced access under section 3.5 of this chapter; or
 2 (B) to a governmental entity under section 3(c)(2) of this
 3 chapter;
 4 to examine and copy the public records by use of an electronic
 5 device.
 6 (4) In the case of electronically stored data, to manually transcribe
 7 and make notes, abstracts, or memoranda or to duplicate the data
 8 onto a disk, tape, drum, or any other medium of electronic
 9 storage.
 10 "Investigatory record" means information compiled in the course of
 11 the investigation of a crime.
 12 "Patient" has the meaning set out in IC 16-18-2-272(d).
 13 "Person" means an individual, a corporation, a limited liability
 14 company, a partnership, an unincorporated association, or a
 15 governmental entity.
 16 "Provider" has the meaning set out in IC 16-18-2-295(a) and
 17 includes employees of the state department of health or local boards of
 18 health who create patient records at the request of another provider or
 19 who are social workers and create records concerning the family
 20 background of children who may need assistance.
 21 "Public agency" means the following:
 22 (1) Any board, commission, department, division, bureau,
 23 committee, agency, office, instrumentality, or authority, by
 24 whatever name designated, exercising any part of the executive,
 25 administrative, judicial, or legislative power of the state.
 26 (2) Any:
 27 (A) county, township, school corporation, city, or town, or any
 28 board, commission, department, division, bureau, committee,
 29 office, instrumentality, or authority of any county, township,
 30 school corporation, city, or town;
 31 (B) political subdivision (as defined by IC 36-1-2-13); or
 32 (C) other entity, or any office thereof, by whatever name
 33 designated, exercising in a limited geographical area the
 34 executive, administrative, judicial, or legislative power of the
 35 state or a delegated local governmental power.
 36 (3) Any entity or office that is subject to:
 37 (A) budget review by either the department of local
 38 government finance or the governing body of a county, city,
 39 town, township, or school corporation; or
 40 (B) an audit by the state board of accounts.
 41 (4) Any building corporation of a political subdivision that issues
 42 bonds for the purpose of constructing public facilities.

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(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, **gaming enforcement officers of the Indiana gaming commission**, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

- (1) notes and statements taken during interviews of prospective witnesses; and
- (2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

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This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 15. IC 5-14-3-4, AS AMENDED BY P.L.173-2003, SECTION 5, AND AS AMENDED BY P.L.200-2003, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
 - (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
 - (3) Those required to be kept confidential by federal law.
 - (4) Records containing trade secrets.
 - (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
 - (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
 - (7) Grade transcripts and license examination scores obtained as part of a licensure process.
 - (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
 - (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.
 - (10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.
 - (11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.
 - (12) Information concerning an investigation conducted under IC 4-33 by the gaming enforcement officers of the Indiana gaming commission.**
- (b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

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- (1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.
- (2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:
 - (A) a public agency;
 - (B) the state; or
 - (C) an individual.
- (3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.
- (4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.
- (5) The following:
 - (A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.
 - (B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.
 - (C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.
- (6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.
- (7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

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(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) ~~information concerning the factual basis for a disciplinary action~~ *action* in which final action has been taken and that resulted in the employee being ~~disciplined~~ *suspended, demoted, or discharged.*

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition

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that the records be disclosed only:

- (i) to qualified researchers;
- (ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or
- (iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing *medical advisory board*. ~~committee~~. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
- (B) vulnerability assessments;
- (C) risk planning documents;
- (D) needs assessments;
- (E) threat assessments;
- (F) domestic preparedness strategies;
- (G) the location of community drinking water wells and surface water intakes;
- (H) the emergency contact information of emergency responders and volunteers;
- (I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
- (J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located

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on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection *by any public agency* without the prior approval of the public agency *that owns, occupies, leases, or maintains the airport*. The public agency *that owns, occupies, leases, or maintains the airport*: ~~The submitting public agency.~~

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under ~~IC 5-14-3-4(19)(f)~~ IC 5-14-3-4 without approval of (insert name of submitting public agency **that owns, occupies, leases, or maintains the airport**)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

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1 SECTION 16. IC 35-47-4.5-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this
 3 chapter, "public safety officer" means:

- 4 (1) a state police officer;
- 5 (2) a county sheriff;
- 6 (3) a county police officer;
- 7 (4) a correctional officer;
- 8 (5) an excise police officer;
- 9 (6) a county police reserve officer;
- 10 (7) a city police officer;
- 11 (8) a city police reserve officer;
- 12 (9) a conservation enforcement officer;
- 13 (10) **a gaming enforcement officer;**
- 14 **(11)** a town marshal;
- 15 ~~(11)~~ **(12)** a deputy town marshal;
- 16 ~~(12)~~ **(13)** a state university police officer appointed under
- 17 IC 20-12-3.5;
- 18 ~~(13)~~ **(14)** a probation officer;
- 19 ~~(14)~~ **(15)** a firefighter (as defined in IC 9-18-34-1);
- 20 ~~(15)~~ **(16)** an emergency medical technician; or
- 21 ~~(16)~~ **(17)** a paramedic.

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